

# HOUSE BILL 757

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2lr2650  
CF SB 605

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By: **Delegates Luedtke and Wilson**

Introduced and read first time: February 9, 2012

Assigned to: Ways and Means

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 2012

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Education – ~~Children in State Supervised Care – Geographical Attendance~~**  
3 **Area Domicile Requirements for Attendance – Exception**

4 FOR the purpose of ~~authorizing a child to remain in a school in a certain geographical~~  
5 ~~attendance area regardless of whether the child resides within the area under~~  
6 ~~certain circumstances; requiring that certain determinations regarding the best~~  
7 ~~interests of certain children in State supervised care be made in accordance~~  
8 ~~with certain factors;~~ requiring a county superintendent to allow a child to  
9 remain at a certain school ~~in the county regardless of where the child is~~  
10 ~~currently domiciled~~ under certain circumstances; requiring the Secretary of  
11 Human Resources and the Secretary of Juvenile Services each to adopt certain  
12 regulations establishing certain factors relating to the best interests of certain  
13 children; requiring the State Department of Education to adopt certain  
14 regulations to implement certain provisions of a certain federal law; and  
15 generally relating to authorizing a child ~~in State supervised care~~ to remain in a  
16 school regardless of ~~whether the child resides in the geographical area of the~~  
17 ~~school~~ the domicile requirements for attendance at that school.

18 BY repealing and reenacting, with amendments,  
19 Article – Education  
20 Section ~~4–100 and~~ 7–101(b)  
21 Annotated Code of Maryland  
22 (2008 Replacement Volume and 2011 Supplement)

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Education**

4 ~~4-109.~~

5 ~~(a) Subject to approval by the State Superintendent and in accordance with~~  
6 ~~the applicable bylaws, rules, and regulations of the State Board, a county board may~~  
7 ~~establish a public school if, in its judgment, it is advisable.~~

8 ~~(b) On approval by the State Superintendent, any school established under~~  
9 ~~this section becomes a part of the State program of public education.~~

10 ~~(c) (1) With the advice of the county superintendent, the county board~~  
11 ~~shall determine the geographical attendance area for each school established under~~  
12 ~~this section.~~

13 ~~(2) REGARDLESS OF WHETHER A CHILD RESIDES WITHIN A~~  
14 ~~SCHOOL'S GEOGRAPHIC ATTENDANCE AREA, THE CHILD MAY REMAIN AT THE~~  
15 ~~SCHOOL THE CHILD HAS BEEN ATTENDING IF:~~

16 ~~(i) THE CHILD IS A CHILD IN STATE SUPERVISED CARE, AS~~  
17 ~~DEFINED IN § 8-501 OF THIS ARTICLE; AND~~

18 ~~(ii) THE LOCAL DEPARTMENT OF SOCIAL SERVICES, THE~~  
19 ~~DEPARTMENT OF HEALTH AND MENTAL HYGIENE, OR THE DEPARTMENT OF~~  
20 ~~JUVENILE SERVICES DETERMINES THAT IT IS IN THE BEST INTERESTS OF THE~~  
21 ~~CHILD TO CONTINUE AT THAT SCHOOL.~~

22 ~~(3) THE DETERMINATION OF THE BEST INTERESTS OF A CHILD IN~~  
23 ~~STATE SUPERVISED CARE UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL~~  
24 ~~BE MADE IN ACCORDANCE WITH THE FACTORS UNDER THE REGULATIONS~~  
25 ~~ADOPTED IN ACCORDANCE WITH § 7-101(B)(2)(III) OF THIS ARTICLE.~~

26 7-101.

27 (b) (1) Except as provided in § 7-301 of this title and in paragraph (2) of  
28 this subsection, each child shall attend a public school in the county where the child is  
29 domiciled with the child's parent, guardian, or relative providing informal kinship  
30 care, as defined in subsection (c) of this section.

31 (2) (I) Upon request and in accordance with a county board's  
32 policies concerning residency, a county superintendent may allow a child to attend  
33 school in the county even if the child is not domiciled in that county with the child's  
34 parent or guardian.

1 (II) REGARDLESS OF WHERE THE CHILD IS CURRENTLY  
2 DOMICILED, A COUNTY SUPERINTENDENT SHALL ALLOW A CHILD TO REMAIN AT  
3 ~~ANY SCHOOL IN THE COUNTY THAT THE CHILD HAS BEEN~~ THE SCHOOL THAT  
4 THE CHILD IS ATTENDING, IF:

5 1. ~~THE CHILD IS A CHILD IN STATE SUPERVISED~~  
6 ~~CARE, AS DEFINED IN § 8-501 OF THIS ARTICLE; AND WHO IS:~~

7 A. IN THE CUSTODY OF, COMMITTED TO, OR  
8 OTHERWISE PLACED BY A LOCAL DEPARTMENT OF SOCIAL SERVICES OR THE  
9 DEPARTMENT OF JUVENILE SERVICES; AND

10 B. SUBJECT TO THE EDUCATIONAL STABILITY  
11 PROVISIONS OF THE FEDERAL FOSTERING CONNECTIONS TO SUCCESS AND  
12 INCREASING ADOPTIONS ACT OF 2008;

13 2. THE CHILD IS NOT SUBJECT TO THE  
14 EDUCATIONAL STABILITY PROVISIONS OF THE FEDERAL MCKINNEY-VENTO  
15 HOMELESS ASSISTANCE ACT AS A CHILD AWAITING FOSTER CARE PLACEMENT  
16 AS DEFINED BY THE DEPARTMENT IN REGULATION;

17 3. THE CHILD IS NOT IN ANY OF THE FOLLOWING  
18 PLACEMENTS:

19 A. A DETENTION FACILITY;

20 B. A FORESTRY CAMP;

21 C. A TRAINING SCHOOL;

22 D. A STATE-OWNED AND STATE-OPERATED  
23 FACILITY THAT ACCOMMODATES MORE THAN 25 CHILDREN; OR

24 E. ANY OTHER FACILITY OPERATED PRIMARILY FOR  
25 THE DETENTION OF CHILDREN WHO ARE DETERMINED TO BE DELINQUENT;

26 ~~2.~~ 4. THE LOCAL DEPARTMENT OF SOCIAL SERVICES,  
27 ~~THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE,~~ OR THE DEPARTMENT  
28 OF JUVENILE SERVICES DETERMINES, IN CONSULTATION WITH THE LOCAL  
29 SCHOOL SYSTEM, THAT IT IS IN THE BEST INTERESTS OF THE CHILD TO  
30 CONTINUE AT THAT SCHOOL; AND

1                                   **5. THE LOCAL DEPARTMENT OF SOCIAL SERVICES**  
 2 **OR THE DEPARTMENT OF JUVENILE SERVICES PAYS FOR THE COST OF**  
 3 **TRANSPORTING THE CHILD TO AND FROM SCHOOL.**

4                                   **(III) 1. THE ~~SECRETARY~~ DEPARTMENT OF HUMAN**  
 5 **RESOURCES AND THE DEPARTMENT OF JUVENILE SERVICES EACH SHALL**  
 6 **ADOPT REGULATIONS ESTABLISHING FACTORS THAT SHALL BE CONSIDERED IN**  
 7 **DETERMINING THE BEST INTERESTS OF A CHILD ~~IN STATE SUPERVISED CARE~~**  
 8 **~~IN ACCORDANCE WITH SUBPARAGRAPH (II) OF THIS PARAGRAPH~~ UNDER THIS**  
 9 **SECTION.**

10                                   **2. THE DEPARTMENT SHALL ADOPT REGULATIONS**  
 11 **TO IMPLEMENT THE EDUCATIONAL STABILITY PROVISIONS OF THE FEDERAL**  
 12 **FOSTERING CONNECTIONS TO SUCCESS AND INCREASING ADOPTIONS ACT OF**  
 13 **2008.**

14                                   (3) If a child fraudulently attends a public school in a county where  
 15 the child is not domiciled with the child's parent or guardian, the child's parent or  
 16 guardian shall be subject to a penalty payable to the county for the pro rata share of  
 17 tuition for the time the child fraudulently attends a public school in the county.

18                                   (4) Nothing in this section alters the requirements for out-of-county  
 19 placements contained in § 4-122 and Title 8, Subtitles 3 and 4 of this article or in any  
 20 other State or federal law.

21                                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 22 July 1, 2012.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.